

AS

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 96-183-C - ORDER NO. 96-591
SEPTEMBER 9, 1996

IN RE: Application of American Communications Services, Inc. on behalf of its Affiliates American Communication Services of Charleston, Inc., American Communication Services of Greenville, Inc., and American Communication Services of Columbia, Inc. for Amendment of its Certificate of Public Convenience and Necessity to Provide Local Telecommunications Services within BellSouth Service Area.) ORDER APPROVING AMENDMENT OF CERTIFICATE TO PROVIDE LOCAL SERVICE)

This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of the Application of American Communications Services, Inc. ("ACSI") on behalf of its subsidiaries American Communication Services of Charleston, Inc. ("ACSH"), American Communication Services of Greenville, Inc. ("ACSG"), and American Communication Services of Columbia, Inc. ("ACSC") (referred to collectively as "Applicants"). The Application requests that the Commission amend the Certificate of Public Convenience and Necessity granted by Order No. 95-1495 dated August 31, 1995 in Docket No. 94-712-C to grant the Applicants additional authority to provide competitive intrastate switched access and local exchange telecommunications services within the BellSouth service area in South Carolina. The Application was filed pursuant to S.C. Code Ann. §58-9-280 (as

amended by Act No. 354, 1996 S.C. Acts), and the Regulations of the Commission.

By letter dated June 14, 1996, the Commission's Executive Director instructed ACSI to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. ACSI complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. Petitions to Intervene were received from BellSouth Telecommunications, Inc. ("BellSouth"); the Consumer Advocate for the State of South Carolina ("the Consumer Advocate"); and the South Carolina Telephone Coalition ("SCTC").

A hearing was convened on August 14, 1996, at 11:30 a.m. in the Commission's Hearing Room. The Honorable Guy Butler, Chairman, presided. The Applicants were represented by Russell B. Shetterly, Esquire; BellSouth was represented by Harry M. Lightsey, III, Esquire; the Consumer Advocate was represented by Elliott F. Elam, Jr., Esquire; SCTC was represented by Margaret M. Fox, Esquire; and the Commission Staff ("the Staff") was represented by Florence P. Belser, Staff Counsel.

In support of its Application, ACSI presented James C. Falvey to testify. Falvey is the Vice President for Regulatory Affairs of ACSI. The purpose of Falvey's testimony was to (1) describe the corporate structure of the Applicants, (2) describe the

financial, technical, and managerial resources of ACSI and the Applicants, (3) describe the Application, (4) describe the Applicants' current network in South Carolina and the proposed intrastate switched services to be provided, and (5) comment on the public need for, and the public benefits of, the Applicants' proposed intrastate service. Falvey testified that the Applicants' networks were initially to provide interstate and intrastate non-switched access and private line services, but that the instant Application was filed to expand those services to include intrastate switched access and local exchange services. According to Falvey, Applicants plan to initially offer the following three categories of local exchange telecommunications services: (1) exchange access services and optional features, (2) exchange usage and operator services, and (3) carrier access services to other common carriers.

DISCUSSION

S.C. Code Ann. §58-9-280 (as amended by Act No. 354, 1996 S.C. Acts) provides that the Commission may grant a certificate to operate as a telephone utility ... to applicants proposing to furnish local telephone service in the service territory of an incumbent LEC.

After full consideration of the applicable law, ACSI's Application, and the evidence presented at the hearing, the Commission finds and concludes that the amendment sought by ACSI to its Certificate should be granted. The Commission's determination is based on the following criteria as provided in

S.C. Code Ann. §58-9-280 (as amended by Act No. 354, 1996 S.C. Acts) and the evidence presented which relates to that criteria:

(1) The Commission finds that ACSI possesses the technical, financial, and managerial resources sufficient to provide the services requested. S.C. Code Ann. §58-9-280(B)(1). To demonstrate ACSI's technical qualifications, witness Falvey testified that ACSI has been providing private line and special access telecommunications services in South Carolina since ACSI was granted a Certificate in Docket No. 94-712-C. Falvey also stated that ACSI currently has fifteen (15) operational networks, with an additional eight (8) networks under construction, across the nation. Concerning ACSI's managerial qualifications, Falvey testified that ACSI's leadership team has combined experience of over 100 years of executive telecommunications experience and extensive operational experience involving fiber optic network development. Further, Falvey noted that ACSI has drawn its managerial team from some of the best companies in the telecommunications industry. Regarding ACSI's financial resources, Falvey stated that ACSI is financially well qualified to provide telecommunications services in South Carolina and further stated that ACSI has adequate access to the capital required to fulfill its undertakings with respect to construction of networks and associated operating and maintenance costs. No party offered any evidence in opposition to Falvey's testimony. Based on the undisputed testimony of Falvey, the Commission finds that ACSI possesses the technical, financial, and managerial

resources sufficient to provide the services requested.

(2) The Commission finds that ACSI will provide services that will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (as amended by Act No. 354, 1996 S.C. Acts). Falvey testified that ACSI seeks to provide intrastate switched local exchange services. Falvey specifically stated that ACSI will comply with all applicable rules, policies, and statutes applicable to the offering of those services and that ACSI fully intends to meet the Commission's service standards. No party offered any evidence to dispute Falvey's testimony. Based on the undisputed testimony of Falvey, the Commission believes, and so finds, that ACSI will provide telecommunications services which will meet the service standards of the Commission.

(3) The Commission finds that the ACSI's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (as amended by Act No. 354, 1996 S.C. Acts). Falvey testified that ACSI believes that availability of affordable local service will increase with ACSI's admittance into the local market. Further, Falvey's prefiled testimony reveals that ACSI believes that approval of its Application will increase competition for basic local exchange services which will offer customers in South Carolina a wider range of product offerings, innovative technologies, increased quality, and lower prices for local telecommunications services. No party offered any evidence that the provision of local exchange service by ACSI would adversely

affect local rates. Therefore, based on the undisputed evidence of record, the Commission finds that provision of local exchange services by ACSI will not adversely impact affordable local exchange service.

(4) The Commission finds that ACSI will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (as amended by Act No. 354, 1996 S.C. Acts). Falvey testified that ACSI fully intends to comply with the Commission's universal service requirements and will contribute to universal service mechanisms on the state and federal levels as the universal service mechanisms may apply to ACSI. No party disputed Falvey's testimony. Based on the undisputed evidence of record, the Commission finds that ACSI will participate in support of universally available telephone service at affordable rates.

(5) The Commission finds that the provision of local exchange service by ACSI "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (as amended by Act No. 354, 1996 S.C. Acts). Falvey offered that the competition of ACSI offering services in BellSouth territory will benefit BellSouth customers. Falvey explained that BellSouth will have increased economic incentives to offer the consumers higher quality services at lower prices. Further, Falvey offered that competition will promote improvements to BellSouth services. Falvey's testimony was undisputed as no party offered any evidence that approval of ACSI's Application would adversely impact the public interest. Therefore, the Commission finds that approval of

ACSI's Application to amend its Certificate to provide local exchange service "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (as amended by Act No. 354, 1996 S.C. Acts).

Therefore, based on the findings above, the Commission finds and concludes that the amendment sought by ACSI to its Certificate should be granted.

IT IS THEREFORE ORDERED THAT:

1. The Application of ACSI to amend its Certificate of Public Convenience and Necessity to allow ACSI to provide competitive intrastate switched access and local exchange services in the BellSouth service areas is approved. ACSI is hereby authorized to provide competitive intrastate switched access and local exchange service in the BellSouth service area in South Carolina.

2. ACSI shall file, prior to offering local exchange services in South Carolina, a final tariff of its service offerings. The final tariff shall include the modifications and changes to the proposed tariff to which ACSI agreed with the Commission Staff and the Consumer Advocate.


3. ACSI shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relation (complaint) matters, engineering operations, and tests and repairs. In addition, ACSI shall provide to the Commission in writing the name of the authorized representative to be contacted

in connection with general management duties as well as emergencies which occur during non-office hours. ACSI shall file with the Commission the names, addresses, and telephone numbers of these representatives within ten (10) days of receipt of this Order. Further, ACSI shall promptly notify the Commission in writing if the representatives are replaced. ACSI is directed to comply with all Commission regulations unless expressly waived by the Commission.


4. ACSI shall conduct its business in compliance with Commission decisions and Orders, both past and future, including, but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

5. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Deputy Executive Director
(SEAL)